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October 26, 1999

BY FACSIMILE

The Honorable Carol M. Browner
Administrator
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Dear Administrator Browner:

On October 20, 1999, an ad hoc coalition of environmental organizations filed a petition requesting the Environmental Protection Agency (EPA) regulate certain Kyoto Protocol-listed greenhouse gases, including carbon dioxide (CO₂), under Section 202(a)(1) of the Clean Air Act. The petitioners also asked for a "substantive response" by you within 180 calendar days and threatened to "consider litigation" to achieve the regulatory actions requested.

It is our conviction that EPA cannot lawfully comply with the petitioners' request. On the same day the environmental groups filed their petition, the President signed the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000," which contains the "Knollenberg" funding restriction. The Knollenberg provision bars EPA from proposing or issuing rules, regulations, decrees, or orders to implement the Kyoto Protocol. Regulating CO₂ and other greenhouse gases is, of course, the core function of the Protocol. If the Knollenberg provision means anything, it means no regulation of CO₂ unless and until the Senate ratifies the Protocol.

Furthermore, as observed by Congressman John D. Dingell in an October 5, 1999 letter to Chairman McIntosh, the Senate unsuccessfully attempted in 1990 to amend the Clean Air Act to address greenhouse gas emissions from motor vehicles. The Senate proposed to add a new subchapter entitled "Stratospheric Ozone and Global Climate Protection" that, under the proposed definitions of the Senate-passed bill, applied to "motor vehicles." However, House and Senate conferees dropped those provisions in the final October 1990 conference report. Congress deliberately withheld from EPA the very power the petitioners now assert EPA must exercise.

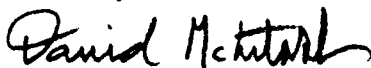
Finally, we note that you and other Administration spokespersons, on numerous occasions, have pledged not to implement the Kyoto Protocol prior to its ratification by the Senate. A "no implementation" pledge that is not also a commitment to abstain from regulating CO₂ is hollow – an empty promise.

If EPA does not summarily dismiss the petition as inconsistent with its "no implementation" pledge, the Knollenberg provision of P.L. 106-74, and the text, structure, and legislative history of the Clean Air Act, please establish a process for public comment on the petition.

Pursuant to the Constitution and Rules X and XI of the House of Representatives, we request that EPA maintain a public docket of all meetings and telephone, fax, and e-mail contacts with any of the petitioners, and others, including other Federal officials, concerning the petition. The docket should clearly describe the purpose of such meetings and identify all Federal and non-Federal attendees and contacts. We further request that you provide the Subcommittees with a copy of each document on a bimonthly basis, beginning November 15th.

Please deliver your response to this letter and the information requested to the Government Reform Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs majority and minority staffs in Rayburn House Office Building B-377 and B-350A, respectively, and the Science Subcommittee on Energy and the Environment majority staff in Ford House Office Building H2-389. If you have any questions about this request, please contact Staff Director Marlo Lewis at 225-1962 or Staff Director Harlan Watson at 225-9816. Thank you.

Sincerely,



David M. McIntosh
Chairman
Subcommittee on National Economic Growth,
Natural Resources and Regulatory Affairs



Ken Calvert
Chairman
Subcommittee on Energy
and the Environment

cc: The Honorable Dan Burton
The Honorable F. James Sensenbrenner
The Honorable Dennis Kucinich
The Honorable Ralph M. Hall
The Honorable Jerry F. Costello
The Honorable Joe Knollenberg
The Honorable John D. Dingell